

The Present State of Liberty

Adam Knott

TABLE OF CONTENTS

What is Liberty ?.....	1
The Order of Liberty.....	3
The Erosion of American Liberty.....	5
Three Reasons Libertarianism Fails.....	9
Political Monopolism.....	9
Libertarianism and Pluralism.....	13
Libertarianism and Monopolism.....	14
The Geographic Conception of Government.....	15
Voting	18
How is Libertarianism Misconceived ?	22
Am I a Democrat ?.....	27
The Unworkability of Radical Libertarianism.....	31
Libertarian Theory of Society versus Individual Liberty	33
Real Individual Liberty.....	36
A Simple Vision of Individual Liberty	38
Individual Liberty	39
Toward the Emergence of Individual Liberty.....	41
Some Prevalent Unchallenged Assumptions about the Conceiving of Human Liberty	42

Solving Libertarianism’s Theoretical Problems 45
Argumentation 46

WHAT IS LIBERTY ?

Liberty in the libertarian ideal exists when the individual is free to choose, not only goods, services, and the town he lives in, but also the government or rules he lives under.

Libertarianism is a vision of the individual freed from social or government coercion, and allowed to choose for himself in every important aspect of life.

Dispute resolution, personal protection, jurisdiction boundaries; these are not culturally dependent things. These are human needs which are universal or near universal. Almost everyone needs some form of dispute resolution, personal protection, and jurisdictional agreement. However, most people cannot provide these things for themselves. They look to others to provide them, and hence a business or government agency is created. Libertarians need the services provided by these agencies as much as anyone else. In a society where the welfare state did not impose them, people would bring them into existence by market demand.

The difference between a libertarian society and a non-libertarian society, is that in a libertarian society these services are not monopolized by a single provider. In the libertarian ideal, other people or agencies are free to provide these same services and the free citizen can choose from among those providers or make other arrangements of his own choosing.

Libertarianism is not the attempt to abolish or reform someone else's welfare state. Libertarianism is only the attempt to be exempt from its commands and to be free to substitute agreements of one's own choosing.

From the welfare state point of view, an attempt to break free of its commands may constitute to that state, an attempt to reform or abolish it. Nevertheless, the goal of libertarianism has nothing directly to do with reforming or abolishing anyone else's political systems. Libertarianism is concerned with the individual freedom of those who *want* to be free. Those who want to be citizens of a welfare nation state are free to do so from the point of view of libertarianism.

Liberty is the right to opt out, to choose not to join, the right to choose my own, the right of association and disassociation. This right to opt out does not necessarily entail a repeal of laws that bind others. But it does mean that those wanting to make

their own arrangements for the services which traditional governments provide are free to do so.

To the extent I'm free, voluntary cooperation, voluntary integration into society, and voluntary association replace forced compliance. To the extent I'm free I can choose in all important areas of life, not just those "allowed".

Libertarianism is the political philosophy that conceives people should have a choice not only in selecting common goods and services, and not only a choice in selecting the town they live in. People (who want to) should have a choice about what rules and laws they live under. Most people will want to live under rules that provide for their safety and protect them from malicious acts. They also will want to live under rules that make mediation of honest disagreements possible so they do not have to resort to more violent or inefficient means of resolving such disputes. Libertarianism is the attempt to realize this vision of the individual's freedom to choose in all important areas of life, not just those allowed.

THE ORDER OF LIBERTY

Libertarianism is not associated at all with disorder and does not have any romantic idea about a temporary or prolonged state of societal disorder, chaos or anarchy. Libertarianism is

simply the idea of the freedom to choose in all political matters.

What keeps coercive, anti-libertarian governments in place in all societies on the globe is not just human weakness and ignorance. Part of what keeps these governments in place is legitimate societal demand. Specifically, the need for dispute resolution, for protection, and other types of conflict mediation is universal, and not dependent on one's stage of cultural development.

A libertarian or anarchist may believe he doesn't need government. He may believe that as each conflict arises he will deal with it himself. In reality what he would have is an inefficient and highly dangerous form of "government". Conflict is inevitable, and he would have to settle each individual dispute with a person or group having reached no prior agreement in principle.

Two people engaged in a property dispute with no agreed upon mediation mechanism can quickly turn into a deadly conflict. Therefore "government", in the sense of the need for certain types of conflict resolution, is a universal human need. In a free society what are now government services would likely be provided by agencies of a different nature. The agreements between the individual and these agencies would likely be

contractual and not coerced. But there is no free lunch, and the free citizen is likely going to have to pay for dispute resolution services just as he does for electricity and water. He just won't be forced to do it by a monopolistic welfare state.

The libertarian vision of society then, is not one of disorder or anarchy. Rather it is a vision of a different *kind* of order. A free person is free to choose the protection services he desires and is not forced to pay for or join the protection service of someone else. A free person will want to resolve disputes in an orderly way and in a way that would be recognizable to us. His need for order and non-violence is the same human need felt by all.

THE EROSION OF AMERICAN LIBERTY

From an American point of view, the history of liberty can be summarized briefly in the following way. The Founding Fathers and their generation, through a high degree of learnedness, conceived the rules of a society comprised of two parts. The first part was an idea of the relationship of the individual to his government. The second part was the mechanism of political change.

When that society was established, the habits of mind among the educated class and the libertarian ideal of government they

held served as a counter-balance to the democratic political mechanism they had put in place. The democratic mechanism was and is compatible with widely varying degrees of individual liberty. In fact, the democratic mechanism of political change is weighted against individual liberty. So the history of liberty in America is that of a gradual decline, as the mechanism of political change, the institutions of democracy, have gradually also become the *habits of mind* of the educated class.

In very general historical terms, the institutions of democracy were a political “technology” developed by educated men who were trying to free themselves from past ages of authoritarian rule. Placing power and political decision making in the hands of people who broadly represented the public at large, was a way of taking power and political decision making away from kings, be they good or bad ones. But the Founding Father’s idea of the proper relationship of the individual to his government was in large part due to direct philosophical intuition. That is, their philosophical learnedness is what gave birth to the particular political relationships formed at that time; the concrete “property relations” and other legal relations that were the starting point of American society, *apart from* the democratic mechanism they put in place as the mechanism of political *change*.

The American democratic mechanism of political change was “advanced technology” in its time. It is still advanced technology compared to many repressive forms of government still in existence. However, it is old and increasingly obsolete technology in relation to twenty-first century society. The coerciveness of democracy—long felt by libertarians—is now felt more and more by ordinary citizens, as increasingly, important social issues are decided either by a vote of 51% to 49% or 5 to 4. Democracy works best when there is broad agreement. Then the number of those coerced into unwanted social arrangements is small compared to society in general. But when the number of those coerced is roughly equal to the number of those *coercing*, then the question naturally arises: By what right does your group force my group to submit to this objectionable action?

Be that as it may, the libertarian movement in America is largely a movement trying to recapture in some respect the individual liberty that has been steadily eroding since the nation’s founding.

In the twentieth century, libertarian writers, in large part reacting to European socialism of the late nineteenth and early twentieth centuries, revived libertarian scholarship and formed the contemporary libertarian movement. Mostly this work was the heroic effort of a few passionate intellectuals done in an

extremely hostile environment. And in the sense that these writers gave birth to the libertarian movement and to a new generation of libertarians they were successful. However, the libertarian political movement itself has not been successful. Not only is there no libertarian society, but there are no prospects for a revival of individual liberty on the immediate horizon. All that exists and all that is expected is democracy. And many libertarian scholars are really democrats of libertarian orientation.

Since the libertarian movement is now three or four decades old, and since it now has a larger number of scholars and organizations in its fold than ever before, it is legitimate to ask why this movement is not producing tangible results aside from scholarship. Why is libertarianism not a compelling force in contemporary social life or likely to be so in the near future? And why is no libertarian society emerging? In short, why is libertarianism failing?

THREE REASONS LIBERTARIANISM FAILS

Contemporary libertarianism cannot succeed in its present form for three primary reasons:

1. Much of contemporary libertarianism accepts the principle of political monopolism, a principle opposed to individual liberty.
2. Contemporary libertarianism still thinks in terms of geographic government, while a geographic conception of government is incompatible with the principles of liberty.
3. Contemporary libertarianism does not know how to conceive of political change without voting, yet the principles underlying the act of voting are hostile to individual liberty.

POLITICAL MONOPOLISM

Political monopolism is the unchallenged philosophy of contemporary political practice and theory. Political monopolism is the common political philosophy not only of the various forms of statism such as socialism and authoritarianism, but is also the underlying philosophy of democracy. What separates libertarianism from other proposed

forms of social organization is that libertarianism rejects political monopolism.

We can find political monopolism in any number of common examples. A democratic election is one example. The premise of the election is that only one candidate will be elected to represent all the people in a designated region, with the inherent result that one or more subgroups within that region will be opposed to the eventual winner. The winner will represent all the people legally, but will not *in fact* represent the groups opposed to him. Instead he will essentially *rule* them.

Another example of political monopolism is seen in our contemporary treatment of crime and criminal punishment. In any given society two groups disagree as to whether a specific act constitutes a crime, or they agree that the act is a crime, but disagree on what the appropriate punishment should be. In the monopolistic conception of crime and criminal punishment only one definition of crime and its punishment is sought after, which in turn will be binding on both groups. Inherent in this approach is that one group must always believe the act in question is not a criminal act and/or that the punishment is not appropriate. In this sense democracy, which conceives an inherent conflict between minority and majority groups, is a form of political monopolism.

Political monopolism is possibly the most fundamental principle of contemporary political thinking. To those living in our age, political monopolism doesn't appear to be a specific theory or approach to politics they have chosen, but simply a given fact of reality much like gravity or time. To the contemporary mind, a political reality that is not monopolistic is almost unimaginable, and there seems to be no other way to arrange mankind's political relationships.

In reality, political monopolism is a theory; a way of thinking. It is the result of ideas. Political monopolism is the specific social outlook corresponding to our culture's level of social and intellectual development.

We might imagine the likely reasons why people choose the monopolistic approach to politics as opposed to a pluralistic approach, for example. Perhaps people prefer to live under laws they disagree with, when those laws bind everyone, rather than agree with the laws they are subject to, when those laws might differ from the laws of others. Perhaps political pluralism isn't seriously considered on the grounds that it entails moving away from centralized control and people believe this must cause anarchy or disorder.

Regardless of the particular reasons *why* people retain a monopolistic conception of politics, we conceive political

monopolism as a recognizable political viewpoint. This viewpoint not only favors monopolistic conceptions and solutions over pluralistic ones, but due to its integrated world view it tends to believe monopolism is the *only* workable approach to most political problems. That is, the political philosophy of monopolism rejects the idea that its structures are a stage on the way to a more harmonious, essentially non-monopolistic future. Those holding the monopolistic viewpoint therefore do not try to reconcile the inherent conflicts of monopolism by conceiving a more satisfactory, less divisive political solution. Rather monopolists direct their political energies to, and base all their expectations on, a future monopolistic political reality essentially unchanged from the present. They believe that political monopolism is a final end, and do not comprehend that it is only a stage of political development, and that a more harmonious political existence is possible.

Each individual and group operating within the mental and physical constraints of political monopolism takes a position with regard to the important political conflicts of the day. In accepting political monopolism, they place themselves in a system that forces a choice between dominating or being dominated by another group. Since they conceive political monopolism as a final end, and not as a transitional stage to a more harmonious system, the energy of each individual and

group is then directed only toward prevailing politically, which within the social systems of political monopolism is synonymous with subjugating others. The level of coercive violence necessary to perpetuate monopolistic society is then seen as completely normal and necessary, in exactly the same way as other violent societies in history believed they were practicing a natural and normal type of social interaction.

LIBERTARIANISM AND PLURALISM

One way of understanding libertarianism is to view it as the continual unfolding of the principle of political pluralism. Libertarianism seeks to resolve political conflict not by imposing one binding solution on two opposed groups, but by continually seeking pluralistic solutions that nullify conflict. What distinguishes libertarianism from monopolistic forms of government, is that libertarianism does not try to strike an arbitrary balance between the subjugation which is a necessary feature of monopolism, and the human impulse to avoid it through pluralism. Rather libertarianism strives to transcend the inherent conflict in monopolism by conceiving the right of every individual to freely seek not only goods and services but political arrangements as well. For the one political solution which monopolism allows, libertarianism envisions a potential multiplicity of solutions.

Libertarianism may be conceived as a *political principle* and not a desire for any particular societal configuration, though individuals in their liberty may desire and strive to create particular social arrangements. Strictly speaking, libertarianism is not an attempt to liberalize a monopolistic political system in order to expand the sphere of economic and associative freedom. Rather it is a proposed *principle* for resolving political conflict. Incessant change in society leads to equally incessant occurrences of social conflict. Under political monopolism each conflict is approached from a monopolistic viewpoint with an eye toward a monopolistic solution. It is assumed before hand that someone will have to be coerced into an unwanted political arrangement. But under libertarianism each conflict is approached from a pluralistic viewpoint with an eye toward a pluralistic solution. It is assumed before hand that coercing someone into an unwanted political arrangement cannot be the end result. Libertarianism is a *fundamentally* different approach.

LIBERTARIANISM AND MONOPOLISM

Many libertarians operate under the implicit assumptions of political monopolism. They conceive politics in terms of everyone having to obey the same rules. They mistakenly believe that this is compatible with libertarianism as long as the rules everyone has to obey are “libertarian”. But it’s not

whether a particular law is libertarian or not that matters. Liberty in the libertarian ideal is when individual choice applies to political pacts and legal obligations. Political monopolism is the political philosophy conceiving that coerced political arrangements are universally necessary. Political monopolism is therefore at fundamental odds with libertarianism. Where there is political monopolism there is not liberty to choose. It follows that libertarians who subscribe consciously or unconsciously to a monopolistic conception of government, cannot intentionally succeed in establishing a libertarian society.

THE GEOGRAPHIC CONCEPTION OF GOVERNMENT

A fundamental contradiction in the libertarian approach to politics not yet realized by most libertarians, is that imposing one's rules over a geographic region onto unwanting subjects cannot be the proper goal of libertarianism. Since libertarians spend a lot of time trying to do precisely this, they expend their energy acting on a principle at odds with their own ideals, thus encountering needless opposition from those who might otherwise be their allies.

Libertarians believe that by enacting "freedom of choice" laws over wide geographic areas they will not be harming anyone, since then everyone will be free to do or not do as they please.

Thus they conceive of laws granting “rights” to others with whom only a geographic relationship is shared. They fail to realize that in passing laws on a geographic basis, they alter the legal relationship between other people (let’s say B and C), people who’s desires and aspirations are essentially unknown to those passing such laws. The simple question to be asked is, how is it that person A claims to establish the legal relationship between persons B and C without reference to the desires of B and C? Are people B and C not free to enter into a political pact of their own choosing, one different from that desired by person A?

Perhaps B and C are at a certain level of cultural development and only capable of understanding the type of legal relations consistent with that culture. Or perhaps B and C are more advanced in their social development than person A, and wish to arrive at their own set of legal relations. How can person A claim that his prescribed legal system is the only true one that must be adhered to by all people? And what happens when another person D believes that *he* knows the one true legal system, but it is a different one than A’s?

Consistent libertarianism therefore cannot include the goal of imposing one set of laws over a geographic region in disregard of the desires of those in that region. Libertarianism cannot be the prohibiting of others from establishing relationships they

believe will best serve their own interests. And libertarianism cannot be the imposition of some singular vision of “liberty” onto unwanted subjects, necessitating a society where others will have to free themselves from such “libertarians”.

Freedom is to be found in the relationship of the individual *to* others, not in the imposition of the individual’s relationships *among* others. The two are not the same. There is the relationship of person A to people B and C living in the apartment next door. And there is the relationship between people B and C. Those two relationships need not be the same. And in fact they are not.

In seeking to arrange uniformity of legal relationships within a geographic region libertarians contradict their own program of political self-determination by attempting to deny political self-determination to others. Socialists view the role of government as providing social services. Religious conservatives generally regard things like drug use and liberal sexual activity as absolute vices that a good society must prevent. Well meaning citizens of all classes and intellectual ability steadfastly support compulsory taxation as a means for advancing social welfare. What is wrong with these political ideals from a libertarian perspective is not primarily the harm they bring to those implementing them. What is wrong with these ideals is that all of them are monopolistically conceived political visions which

their adherents seek to impose on everyone else via coercive means. What is wrong with these ideals is that they envision forcing *everyone* to be bound by them and envision forcing *everyone* to suffer the negative consequences each ideal must bring about.

The libertarian solution to this cannot be “more of the same”. The libertarian solution must be to conceive of political relationships differently and thus break free of the self-defeating political paradigm of “rule or be ruled”. The libertarian solution must be to provide a *fundamental* alternative to involuntary rule.

When libertarians try to impose their laws on all those in a geographic region, and when they seek to grab the reigns of democratic power and use them for their own aims, they act against their own principles. By attempting to utilize the same political principles as others, libertarians fail to provide an alternative vision of society, and thus prevent libertarianism from becoming a force on the world political stage.

VOTING

An important sign of libertarianism’s philosophical weakness is the fact that no serious criticism of the institution of voting has been brought to public awareness. The absence of such a

criticism leaves the impression that the method of voting is a political final end rather than a stage in human political development, and additionally that voting has high intrinsic moral value. Unfortunately, voting is not a highly moral or noble act, and the principles which underlie it are hostile to individual liberty.

When we talk about voting we mean non-voluntary or coercively imposed voting. Because if everyone participating in a vote voluntarily agrees that voting is the means by which they want to settle the matter at hand, and they agree to be bound by its results, then this constitutes in essence a contract. Each person then is conceived as agreeing to an implicit contract: "I agree that voting is how I want to settle this, and I further agree to be bound by the results of the vote". However when we talk about voting in a political context we mean the other kind of voting, the kind where some or at least one does not so agree. In a political context, voting means that the majority of those who agree on some course of action believe they have thereby attained moral sanction to use force in achieving the majority's will. Voting in this conception is viewed as a process that legitimizes using force against others who have committed no crime.

Thus, the choice to participate in voting as a political means is not neutral. Acceptance of voting as a political means implies an ideology.

For our present purpose we may assume that nothing better than voting can be found to serve as a principle or mechanism to decide important political issues such as the transition of political power and the like. Whether or not voting is the best method possible, it has a perilous and hidden effect on society that libertarians should fully understand before staking their political future in its utilization.

In voting there are always at least two groups affected: Those voting and agreeing with the principle of voting, and those who do not agree with the principle of voting and do not vote.

Thus, the decisions arrived at by voting, and the policies enacted, must necessarily always be arrived at and enacted by the ideology that agrees with voting (or at least agrees with it enough so as to outweigh any concerns about voting). Continual societal development occurring under repeated voting, must necessarily tend to create social structures (both physical and intellectual) which are the intended or unintended aim of those who accept voting. And continual societal development occurring under repeated voting must necessarily tend to move society away from those structures which would

be the intended or unintended aim of the group or person who does not agree with the principle of voting.

Stated precisely, because voting entails an ideology, the process of voting cannot intentionally bring into existence, any social structures for which it would be the necessary pre-condition, not to have the voting ideology.

Stated loosely, because voting entails an ideology and because it excludes the will of the other group, voting produces social structures compatible with the level of social development and ideology of the group that agrees with voting, and continually enhances and strengthens those structures through repeated voting. And repeated voting continually diminishes social structures which would be compatible with the ideology and level of social development of the excluded group. (When we say “social structures”, we mean not only laws and institutions, but also the mental concepts used by the educated in society to describe and discuss social matters.)

So voting is not a neutral or benign act as is commonly believed. It is a political process that is self-reinforcing. Voting is a political method indicating a specific level of social development. And more, it is a process that by repeated usage transforms society and culture more and more towards conceptions and institutions consistent with it, and more and

more away from conceptions and institutions not consistent with it.

This malignant feature of the institution of voting is probably the most serious in its implication for the future of individual liberty. It is hidden and subtle. The gradual societal transformation and consolidation occurring under a process of continual voting, constantly, stealthily moving society away from conceptions and institutions not compatible with it, is by far the most dangerous aspect of this democratic institution.

Thus, libertarians who vote, no matter how noble such an act may be from a democratic point of view, and no matter how noble voting may be in comparison to more repressive political system's methods, nonetheless act contrary to individual liberty. They utilize and support a process that not only contradicts the principles of individual choice, but that also makes the realization of liberty in the future more difficult.

HOW IS LIBERTARIANISM MISCONCEIVED ?

Libertarianism fails in practice because its aims are contradictory. What allows such contradictory aims is the misconceiving of libertarianism; the belief that libertarianism is something other than it is.

An article in a contemporary libertarian magazine is a perfect demonstration of how libertarianism is misconceived.¹ The author of this article considers himself a libertarian, but complains that other radical type libertarians question his standing as a true libertarian. His portrayal of contemporary libertarianism is an unfortunate but accurate exercise in libertarian thinking, illustrating several important ways libertarianism is misconceived, and demonstrating why libertarianism is an unsuccessful movement.

The author begins by listing his libertarian qualifications. He works for a libertarian think tank and he contributes articles to libertarian magazines. Additionally, the stands he takes on contemporary political issues are generally associated with libertarianism. For example, he supports drug legalization, school vouchers, and social security privatization. Next, the author lists a few of his political stands which his libertarian opponents find questionable. He supports some type of health, safety and environmental regulation. He does not believe in the idea of the minimal state, etc.

So, the author asks us, is he a libertarian?

The problem says the author, is that there are two very different types of libertarians existing uneasily under the same umbrella:

¹ Brink Lindsey, *Am I a Libertarian?*, Liberty Magazine, March, 2003

One is the radical or utopian libertarian, and the other is the reformist or pragmatic libertarian.

“The radical libertarian vision starts with an abstract ideal: a polity in which the government’s sole function is to protect individual rights to life, liberty, and property.”(29) “But reformists apply their principles in a very different way: not as blueprints for an ideal society, but as guides to incremental reform.”(29)

Radical libertarians hold certain extreme views and use these views as litmus tests to gauge whether others are indeed true libertarians. These litmus tests include such questions as whether one “...supports fully privatized roads, for example, or the elimination of compulsory vaccinations even during epidemics, or the repeal of laws against blackmail.”(29)

Pragmatic libertarians by contrast, “...determine their allies on the basis of the major issues of the day. Does a person support reforming the tax code to shift its focus away from social engineering and toward raising revenue in the least burdensome way possible? Does he support the phase out of pay-as-you-go public pensions? Does he support measures that would subject the public school monopoly to vigorous competition? Does he support a move away from drug prohibitionism?”(29)

Paraphrasing now, the author continues: Pragmatic libertarians do accept a broader role for government, and don't worry that they may be conceding some vital libertarian principles. This is because the utopia that radical libertarians dream about cannot be realized. So pragmatic/reformist libertarians focus on the job at hand: Convincing collectivists to give us our freedom back.

If we are going to convince collectivists to give us our freedom back, we can't do it using arguments that collectivists and most Americans do not agree with, "...for example, that the state has no proper role at all in education, or in safeguarding against destitution among the elderly..."(29) If we are going to convince collectivists and the public at large to give us our society back, a more effective strategy will be to use arguments which concede a larger role for government, and thus are more in accord with general public opinion, and therefore more likely to be accepted by the public and by collectivists.

According to the author then, our two choices in libertarianism are: Radical libertarianism which is unrealistic, or reformist libertarianism which concedes some important libertarian principles in order to effect real, but incremental change.

In the author's view, there exists the current welfare state within which the individual *is* placed. This is reality, not

dreamland. Given this reality, the freedom-seeking individual should get on with the job of making incremental adjustments to society as public opinion will permit. Alternatively, there is the radical libertarian's utopia within which an individual *might* be placed. While such a utopia cannot in fact be realized, if a radical libertarian utopia *could* be realized, it would be a society in which the government's sole function is to "protect individual rights to life, liberty, and property".

However, the reason a libertarian utopia is not realizable is due to typical considerations such as the following. Let's say society agrees to establish pure libertarian property rights. Here's how it works:

"If I own a 5,000 acre spread, and my neighbor makes a daily practice of stepping onto one far corner of it, I can go to court and get an injunction ordering him to stop it. So if that same neighbor runs a factory that sends effluents into the air over my spread, I should be able to stop that, too. I shouldn't have to prove that it constitutes an "unreasonable" nuisance; I shouldn't have to prove that it imperils my health; the only thing that should matter is that there is a trespass on my property that I don't like. Which means that all it takes is one property-owning green zealot per airshed to shut down the whole economy."(29,30)

For these and similar reasons, pure utopian libertarianism is not a workable political ideal. If society tries to enact certain abstract libertarian legal ideals into law, those ideals are so contradictory and self-defeating that they will lead to unreconcilable conflict and societal paralysis. Thus the libertarian is left with no choice but to compromise important libertarian principles if he is ever to hope for libertarian progress in the real world of real people.

The author summarizes his position and vision of libertarianism: "...if people in society achieve a consensus on the primacy of liberty and then deploy the coercive powers of government to uphold that value, it should not be surprising that they want to assert other values through collective action as well. In my view, therefore, the only intellectually defensible libertarian position is that liberty should be the primary political value, and that other values should supplement rather than supplant the sphere of voluntary activity or civil society." The author further concludes, "I don't think the position that liberty is or ought to be the exclusive political value is tenable."(30)

AM I A DEMOCRAT ?

The author of this article is, like many libertarian advocates, intelligent and articulate. He outlines a view of libertarianism

that could be considered uncontroversial in the sense that many libertarians think roughly the same way he does. His vision of libertarianism is that libertarians should, using the democratic means at their disposal, work for the maximum amount of freedom consistent with those democratic means.

To view his conception of libertarianism as acceptable or reasonable is not difficult as long as one believes in the primacy of the fundamental assumptions of democracy. The fundamental political institutions and/or conceptions of democracy are minimally: majority rule (coercion) enforced by one government (political monopolism) over an entire geographic region (geographic conception of government) achieved by voting (not individual choice). If one believes that this particular level of political social development is the most desirable, or perhaps even the highest development possible, then it is understandable that one's vision of libertarianism would take the form of—that which is consistent with the institutions of democracy.

But it is also possible to view this democratic vision of libertarianism as an outright rejection of the essential idea of liberty. Are majority rule, political monopolism, geographic based government, and voting really eternal and optimal political institutions? Or are those institutions simply those of the society we happen to live in? Is libertarianism to be viewed

as a political arrangement arrived at within the confines of these four constraints? Or is libertarianism to be conceived as an advancement over them? Perhaps planning to reach a future of individual liberty while uncritically accepting the fundamental assumptions of democracy, is not merely acquiescing in contemporary political reality, but also simultaneously subverting the very elements of thought and action necessary to sustain a libertarian movement?

Is voting really the most desirable or the only mechanism of political change available? Is it possible to arrive at a future system of individual choice by a series of votes? Or does the act of voting itself entail a *negation* of individual choice? Regardless of the answer, this fundamental tool of democracy and of democratic rule should at least be critically examined. Do libertarians unilaterally concede that liberty will only be achieved by voting?

In answer to the author's question as to whether or not he is a libertarian we would have to say no. The author's vision of libertarianism reduces to the act of choosing policy alternatives associated with "libertarianism" as those policy alternatives are presented in the democratic political system. The author conceives "libertarianism" as a set of value choices made within the solidly democratic political structure. He does not conceive of libertarianism as a separate political vision.

The author believes in the primacy of democracy and not liberty. His view of libertarianism could be summarized fairly as: The striving for that primary social value of [circumscribed freedom of the individual] which [collective action seeks to implement through coercive government] subject to [the requisite amount of public acceptance] and [balanced against other important social values] such as [caring for the poor, providing for national defense] etc.

In what fundamental way does this view diverge from the principles of a democratic welfare state? Do not all welfare states allow some circumscribed freedom of individual action, and don't they all provide some means by which the sphere of individual action can be marginally increased or decreased?

Is the *marginal amount* of individual freedom, as it is continually increased or decreased in a democracy—a democracy retaining its right of control over every individual—really all that is intended by libertarianism and the struggle for human freedom?

The author believes so, and thus has unintentionally subverted the idea of freedom, making it subordinate to the political institutions culturally popular in his day.

THE UNWORKABILITY OF RADICAL LIBERTARIANISM

The democratic version of libertarianism results from a trap the democrat perceives. On the one hand are the democratic institutions and means of social change placed at his disposal. These current social realities are a given fact. On the other hand is radical or utopian libertarianism, which though a compelling vision in some respects, is actually an impractical and unworkable ideal. Given these two facts of reality; democratic means of social change, and the unworkability of utopian libertarianism, then democratic libertarianism seems the only reasonable choice.

Let's return to the unworkability of radical libertarianism. We want to compare this particular vision of a radical libertarian society to a different libertarian vision that begins with the concept of individual freedom. Radical libertarianism according to the author begins with an abstract ideal: A society in which government's sole function is to protect individual rights to life, liberty and property. We want to contrast this idea to the vision of a possible society that starts with individual freedom (not someone else's restrictive definition of liberty), and *then* proceeds to the political institutions that are freely chosen by those individuals.

Let's assume the paralysis and irreconcilable conflict the author claims will result under utopian libertarianism. Our question is, by what sequence of individual choice would people enter into the type of property agreements the author outlines? Assuming I am a free individual, and no person or group has coercively imposed a particular vision of government on me, would I voluntarily enter into a property agreement of the type outlined? A property agreement where the slightest action of mine might constitute to someone else a trespass and an actionable offense? And even if I did somehow enter into such an agreement, how would I or the other parties to this agreement function if we used our rights against each other in this way? How could such patently unreasonable arrangements emerge if I am able to freely choose the agreements into which I enter and others are free to do the same?

Is it not the case that the contradictory and unreconcilable nature of the situation the author describes stems from the particular conception of libertarianism itself? Specifically, the laws being discussed are conceived as having been arrived at *separately* from the choices of individuals who were supposed to be understood as entering into voluntary agreements.

By what process of free choice did all these property owners find themselves in such an untenable situation?

The libertarian utopia the author describes is indeed unrealizable. Because this utopia is conceived apart from the individual choices and agreements of its citizens. The author, realizing that absurd outcomes result when libertarian society is conceived in the abstract, severed from the idea of individual choice, thus concludes that no abstractions concerning libertarian society are valid. Now for him, all future abstractions (descriptions) concerning a possible libertarian society will be “utopian” (meaning unrealistic). Of course the author doesn’t consider that liberty or a libertarian society could be more correctly conceived; “...there is only a path of ongoing reform and adjustment, no final destination of perfection,...”(38)

LIBERTARIAN THEORY OF SOCIETY VERSUS INDIVIDUAL LIBERTY

The problem with the author’s article and with the views of libertarianism it discusses, is that they never get around to the question of individual liberty. Nowhere does the author directly address the question of genuine individual freedom. Instead, he conducts his entire discussion on the wholistic level of already developed legal orders; the democratic legal order or the utopian libertarian legal order. He then implicitly assigns the autonomous individual to a position *in* one of these legal

orders, with no reference to the individual's assent, voluntary or coerced.

The obvious question is, do the individuals in either of these two societies have a choice? The author does not mention. He conceives the outlines of two possible societies which he believes are mankind's two choices. The individual must submit to the laws of the welfare nation state as it undergoes constant adjustment, back and forth between more and less government control of individual life. Or, as a very unlikely possibility, if radical libertarianism were to become reality, the individual will have to submit to a legal regime the purpose of which is to "protect life, liberty and property".

No right of opt out is implied in either of these visions, and none is discussed or referred to. Society at large and myself as an individual have two choices which are pre-ordained: Submit to the welfare state, or submit to the radical libertarian's absolute utopia. Libertarianism according to this view is one of only two things. Either it is a political party functioning perpetually within an existing democracy. Or it is an academic-theoretical movement primarily concerned with planning and designing the libertarian society into which all people will move.

These conceptions do not start from individual freedom and the implied multiplicity of societal arrangements that might result from individual freedom. Rather they take as their starting point certain preconceived ideas about which societal structures are possible (according to the particular theoretician), and then assume individual freedom is that which will be “allowed” by these structures.

The idea that individual freedom is that which will be allowed in a society designed by others was called “planning” or “social engineering” when socialists had it. Apparently, what is to distinguish libertarian planning from classic socialist or present day democratic planning is that the particular cultural values of the libertarian planner will be different than those of the democratic or socialist planner. Socialists support government owned roads. Democrats support a combination of government and privately owned roads. And radical libertarians support only privately owned roads. The society each wants to create is different in its particulars. But each planner envisions essentially no right of opt out or of disassociation for the individual in his society. Each social planner takes the same position with regard to genuine individual freedom.

Many libertarians today are more concerned with the theory of a monopolistic type libertarian society than they are with individual freedom. They conceive of a “coercive libertarianism”; a

libertarianism that in the end sees no other way but coercion to make all others conform to their vision of “liberty”. These people fail to realize that in conceiving libertarianism this way, they conceive a political reality and take an attitude towards politics that is *essentially* not different from other monopolistic visions of society such as democracy and socialism. They fail to realize that in conceiving society monopolistically and without reference to individual liberty, they themselves reinforce the monopolistic ideology that keeps liberty from emerging.

REAL INDIVIDUAL LIBERTY

Two important facts prevent libertarianism from being correctly conceived, thus robbing it of its appeal and effectiveness as a movement. First, most libertarian thinkers view one or more of the man-made institutions of democracy as timeless and necessary political institutions, and not merely as the culturally dependent institutions they are. The political concepts and institutions of democracy, compared with those of liberty, are highly coercive. But they are cloaked in an aura of moral nobility. The libertarian social thinker incorporating democratic elements in his thinking, believing they are benign or beneficial, inadvertently incorporates high levels of coerciveness in his idea of libertarianism. This becomes apparent when the concepts of government being discussed do not incorporate the idea of individual choice.

Second, due to the powerful vision and writing of some twentieth century libertarian thinkers, libertarians have made the mistake of substituting those author's *vision of* an ideal libertarian society for liberty itself. They have come to view liberty as identical to a particular person's envisioned libertarian society. Unfortunately the two are not identical. One's vision of a libertarian society is largely an outward looking and egocentric vision of what one expects to see under conditions of liberty. But the actual relationships that would be created by free human choice are probably impossible to comprehend ahead of time by the mind of one or several people. Those freely chosen relationships do not unfold according to the hopes or plans of libertarian thinkers. Social visionaries, no matter how compelling their vision, cannot comprehend the particulars of the infinitely complex future that free political choice will eventually create. This is something students of the free market should understand. We will be doing very well if we can obtain the right to make some of those free choices ourselves one day, and help to bring about the complex future currently unknown to the mind of anyone.

Real freedom is not living in a democracy. And real freedom is not living in someone else's envisioned society. Real freedom is when one may freely choose in all important areas of life, not just in the areas of goods and services and where one lives. Real freedom is when the choice of laws one lives under is not made by another person or group.

A SIMPLE VISION OF INDIVIDUAL LIBERTY

What could a vision of individual liberty be, if not a utopian conception of society conceived separately from individual choice?

One of the most hopeful signs for the future of liberty is a feature of the welfare nation state considered harmful by most: That the nation state discriminates against individuals based on an individual's membership in various groups. It treats us differently if we are wealthy or poor, black or white, healthy or sick. It treats us differently depending on the occupation we choose, on whether we are a manager or laborer, or on whether or not we belong to a union. And in this seemingly unfair discrimination the nation state practices—treating the members of each group differently—lies hidden a principle of vital importance to the future of liberty. The nation state has both the willingness and the technology to treat individuals differently depending on their membership in various groups. Therefore it has the ability to treat those seeking liberty differently also. The exemptions from nation state laws necessary to establish freedom for those wanting it are already being granted to many groups within the nation state. For some the tax rate is thirty percent, but for others it is zero.

The nation state's technological ability to accurately capture an unlimited number of distinctions between individuals and

classes of people, and then to allow some classes of people to take actions not allowed to others, means that in principle, those seeking liberty, as a class and as members of a distinct group, could also strive for and attain similar deferential treatment.

The current state of technology combined with the nation state's willingness to discriminate based on group affiliation, means that in principle any person could be easily identified as one who is exempt from, is permitted by law to opt out of, and has full rights not to participate in, any or all of the nation state's programs.

If this freedom can be achieved by even one person, then it can be achieved by many. If a class of people can receive one small exemption, then in principle they can receive others.

This is a vision of individual liberty. The vision consists of conceiving how individual liberty is possible while leaving aside the question of what any particular individual may choose to do with such liberty.

INDIVIDUAL LIBERTY

If one could gain the right, the freedom to choose, in every area and aspect of life, could freely choose all covenants into which

one entered, could freely choose the dispute resolution and protection services of one's liking, then this general idea, this vision of individual freedom and choice, could constitute one possible vision of individual liberty.

The individual in this vision is free to choose in every area of life for which he needs provision, not just in economic transactions. The individual in this vision is not legally a member of a nation state, compelled to join programs designed for serving nation state citizens. The individual in this vision is free to choose any political affiliations and is not viewed as a member of any particular libertarian ideal society. The individual in this vision is not living in a society of chaos, disorder, or anarchy. The individual in this vision is not attempting to impose laws on anyone else or impose them over a geographic region. The individual in this vision lives in a pluralistic society, coexisting in the same space and time with other societies. Democracies are not abolished or defeated, and the free individual possibly lives next door to a citizen living in a democracy. The individual in this vision is not voting as a means to effect political change. In achieving his freedom, *choice* has now replaced voting as a method for acquiring the services he needs.

TOWARD THE EMERGENCE OF INDIVIDUAL LIBERTY

What is the proper goal of libertarians with respect to political aspirations and strategy? Instead of the self-defeating goal of attaining democratic power, libertarians would be better served by obtaining the right for willing individuals to opt out of welfare state constraints. Once particular rights of disassociation are established, this simultaneously establishes the right of disassociation in principle. This right, as opposed to the attempt to gain democratic power, is a far more consistent libertarian goal.

The right of an individual to disassociate contains no direct threat of subjugation to others, unlike one's attainment of democratic political power. If I obtain the right to opt out of another man's democratic system, that democratic system is still in tact, and his position in that system is by and large unchanged.

If libertarians abandon their efforts to gain democratic power (in all its forms), the burden of their task is greatly reduced. Instead of trying to free themselves *and* impose a system of unwanted liberty on others, libertarians would then only have to free themselves, possibly in coordination with other like-minded people. This change in focus transforms liberty, bringing it closer to practical possibility. Because then the

goals of ruling over non-libertarians and convincing non-libertarians to become libertarians are seen for what they are; self contradictory and practically impossible goals. The attainment of liberty by some is a difficult enough goal, and it is made incomparably more difficult when it includes trying to impose unwanted liberty on others.

SOME PREVALENT UNCHALLENGED ASSUMPTIONS ABOUT THE CONCEIVING OF HUMAN LIBERTY

For liberty to exist, libertarians may agree that some person or group will have to attain some kind of exemption from some number of compulsory welfare state obligations, at some time and in some country or region. But beyond this very general vision, no one knows how, when, or in what form this original liberty will emerge. Liberty may possibly begin when some small group of people is able to liberate themselves from a number of welfare state laws at the same time that others are not able to. This would imply a change in the existing legal structure, and would result in the existence of people one could call “libertarians”. They would be living a political existence of greater freedom than those subject to all the laws of the existing welfare state.

If this were to happen, then of how much use would existing libertarian social theory be? If liberty actually emerges in

some modest form not yet completely understood, the main theoretical-legal problem to be solved might be how a limited number of people can relate legally to the welfare state which claims jurisdiction of the geographic area. The majority of libertarian private property theorizing is not designed to solve this problem. Rather the libertarian private property ethic conceives of the entire system of libertarian laws separate from the emergence of individual liberty, and thus without reference to what the actual concrete problems are. The libertarian private property ethic is concerned mostly with the legal relations between hypothetical libertarian property owners, such owners not conceived as organically emerging from welfare state legal structures, but rather conceived as already fully emergent from them. However, there is no certainty whatsoever that emerging liberty will create the conditions assumed by private property theorists.

If some people succeed in obtaining some degree of individual liberty, there is no certain way of knowing what the desires or needs of those people will be. There is no way of knowing what shifts may occur in larger society (legal, intellectual, physical, etc.) upon the realization of this new reality. No one knows what creative agreements could possibly be reached between some conceivable group of people we would call libertarians, and the larger society from which they were attaining some degree of freedom. It is possible that

libertarianism could emerge “organically” with different people in different circumstances forming different agreements. Libertarianism may appear differently in different places. It is possible that people we would call libertarians may be able to achieve a degree of liberty that is not total, yet is enough to satisfy them partially or substantially. What we now conceive of as abstract “liberty” may not look anything like we expect when it finally emerges. If this were to be the case, it could also happen that during this societal transformation, contemporary libertarian social theory would be of little use. The entire structure of laws and legal relations conceived under the banner of the private property ethic may have little practical application, because the assumptions upon which these proposed laws are based may never materialize, *even when human liberty itself does materialize.*

In the books, papers and debates on libertarian social theory, one rarely encounters this realization. If liberty begins to emerge such that the first libertarians still live in a welfare state environment, this will constitute a real and exciting development in the history of liberty. The challenges faced by such a conceivable group of people would likely present *real* theoretical problems; problems of legal relations, jurisdiction agreements, etc. The primary political problem of such people might be, not the legal relations between themselves, but the legal relations between themselves and the larger society.

This is one example of the way in which actual human liberty could conceivably emerge, rendering marginal the practical value of most contemporary libertarian social theory.

Considerations such as these remind us to keep our focus on individual liberty itself, and less so on the design of a grand libertarian legal structure.

SOLVING LIBERTARIANISM'S THEORETICAL PROBLEMS

A self-defeating notion held by many libertarians is the notion that all or most of the theoretical problems of a future libertarian society should be solved before libertarian society can or should emerge.

Those who believe that whether or not a libertarian society is possible, or should be attempted, depends on the success or failure to theoretically solve the abstract problems of some hypothetical libertarian society, make several mistakes in thinking. First, there is no certainty about the eventual structure of a society which would be formed under conditions of greater liberty. Thus, there is no certainty about what actual problems will need solving in such a society. Second, even if one could arrive at a general notion of a future libertarian society, the fact that some of its difficult theoretical problems

eluded satisfactory resolution would be of little importance. The reason is, once liberty begins to emerge and the easier to solve problems and easier to build structures begin to emerge, then the societies—both libertarian and larger society—undergo a shift. From the point of view of this now changed complex of societies, problems which appeared difficult and unsolvable before may appear differently. The imagined problem of the past may be less of a problem now or its solution may become clear.

Trying to solve or conceive of future legal structural problems separately from their emergence in real human circumstances seems to have the effect of focussing all libertarian effort on speculating and hypothesizing, and taking a corresponding amount of effort away from real efforts to establish some kind of emergent human liberty. This separation of thought from action, of scholarship from results, is a defining characteristic of contemporary libertarianism, forestalling indefinitely the time when real human liberty will emerge.

ARGUMENTATION

It is a common belief among libertarians that the theoretical framework they have been building over the decades and the countless debates over the particulars of libertarianism have as

a large part of their purpose, the convincing of non-libertarians to adopt libertarianism.

The cold war against radical socialism was not won by conversions due to arguments. Instead, it was due to the bankruptcy of the socialist system in *tangible* comparison to the western system that the matter was finally settled. On an intellectual level, the fact of communism's bankruptcy was scarcely admitted by most of communism's intellectual defenders. Many still blame bureaucratic mismanagement for the failing of communism, and do not believe it failed because of socialism's inherent contradictions. The left has never formally admitted defeat in the great debate over capitalism versus socialism, but instead has resigned itself to moving socialism forward to the greatest extent possible through democratic means.

If the communist empire had extended over the entire globe (as the welfare state empire does now), then its glaring faults and deficiencies would to this very day be blamed on the failure of individuals or groups to properly administer communism. The intellectual defenders of communism would still be arguing that the chronic shortages and bad living conditions were the result of individual mismanagement, not the result of communism itself. There would be no tangible basis for demonstrating the relative merits of another social system. No

better society would exist as proof that a better way was possible. Arguing against communism and for a *hypothetical* future society, would not be enough to defeat the conceptions formed and sustained by reference to *tangible existing realities*. People advancing such fanciful conceptions would be considered unrealistic dreamers or unhappy social misfits.

Today, libertarians face exactly this situation with regard to the welfare state. In fact, in one important sense it is worse for libertarians. Because the world is now one large welfare state. There is no free country for comparison. There exist today only welfare states, each state with its own limited sphere of individual freedom. Almost every prominent intellectual firmly believes in democracy (if not in a more repressive form of government). And most educated people in the western world believe that “social democracy” is just, is fair, and is most likely the final end of man’s political development.

In the face of this monolithic belief, and with no tangible alternative existing as was the case during the cold war, it is naïve to think that debate and persuasion alone will be able to establish real liberty now or in the future. The nation state system perpetuates itself only *partially* by ideas. There is also the *political reality* that its institutions exist. It may be the result of ideas that people believe they are free because they are allowed to vote. But voting is a *political reality*. It is more

than an idea. Libertarians too need to establish a political reality, something tangible that exists in the likeness of *their* ideas.

The initial emergence of an embryonic libertarian society establishing a tangible existence is likely a necessary precondition for a more fully realized libertarian society or societies. Only the establishment of a nascent libertarian society can begin to defeat the assertions of the existing political class that real liberty cannot exist or function. And only the establishment of a libertarian society can demonstrate to the interested public what kind of better society is possible. Arguments about a proposed libertarian society directed towards entrenched democrats and socialists will likely never establish liberty.

For liberty to exist, libertarians will have to strive for liberty itself rather than for each individual's hoped for society. Only then will liberty become something people have rather than something they write and talk about.

